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C O N F I D E N T I A L SECTION 01 OF 02 BEIRUT 000726

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NSC FOR ABRAMS/DORAN/WERNER/SINGH

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TAGS: IS LE PGOV PREL PTER SY UN

SUBJECT: MGLE01: JUSTICE MINISTER DISCUSSES INTERNATIONAL TRIBUNAL

Classified By: Ambassador Jeffrey Feltman. Reason: Section 1.4 (b).

SUMMARY

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¶1. (C) Despite the fact that the legal team sent to New York returned with a different concept for the tribunal than that contained in their cabinet instructions, Minister of Justice Charles Rizk emphasized that the Siniora government considers the talks to have been very successful -- to the point that the entire process of establishing the tribunal has been considerably accelerated. Rizk maintained this was necessary considering that the expiration of UNIIC's mandate was less than four months away. He agreed that it was important to seek two UN Security Council resolutions -- one to authorize UN/GOL negotiations to establish the court, and the second to compel Syrian compliance. Rizk said he had briefed PM Siniora on the new approach and they both agreed it was desirable to have a seamless transition from the current investigator, Serge Brammertz, to the chief prosecutor of the new tribunal. Rizk also commented that the on-going "national dialogue" conference of Lebanon's political leaders had already reached a consensus agreement on the international tribunal -- and that this would ensure parliamentary ratification of the expected agreement. Concerning international buy-in, Rizk intends to speak with Russia's ambassador to Lebanon, Sergey Boukin, to argue that UN action on the tribunal is needed now to ensure continuity and prevent a loss of momentum. In a follow-up meeting with DCM on March 9 (septel), GOL legal advisor Judge Ralph Riachy confirmed the substance of the foregoing strategy, and noted that it had been conveyed to UNIIC Commissioner Serge Brammertz on March 9. End summary.

¶2. (U) Minister of Justice Charles Rizk met with the Ambassador and poloff on March 8 at the Ministry. Appellate judge Shukri Sader, one of the two MOJ legal experts sent to New York for consultations with UN/OLA, also attended the meeting.

¶3. (C) Minister Rizk voiced complete satisfaction with the results of the UN/GOL consultations in New York, even though the new approach is significantly different from the government's original proposal. Rizk said he had briefed the Prime Minister and indicated the government would work diligently to ensure consensus and timely approval of the concept. He noted that the national dialogue conference currently being led by Nabih Berri had already reached agreement to support the establishment of the international tribunal. According to Rizk, this imprimatur would guarantee rapid ratification of the anticipated UN/GOL agreement by Lebanon's parliament.

¶4. (C) Regarding international support, Shukri Sader noted that Russia's representative in New York had appeared skeptical about the early establishment of the tribunal, and had commented dryly, "... these international courts appear to be proliferating." Rizk said PM Siniora was considering sending an envoy to New York for an extended period to lobby on Lebanon's behalf, using the argument that the timely establishment of the court, specifically the work of its chief prosecutor, was a critical element in ensuring a gap did not develop between the UNIIIC and the new court.

¶5. (C) The minister noted with approval that the new approach envisioned a tribunal that will base its prosecution on violations of Lebanon's penal code. This would allow the smooth integration of evidence and findings already assembled by the UNIIIC into the new court's proceedings without a costly and time-consuming investigative redundancy.

¶6. (C) Charles Rizk's understanding of the anticipated UN process corresponded closely with reporting from USUN, specifically: UN/OLA Director Nicolas Michel will shortly deliver his report on the just-concluded UN/GOL consultations to the Secretary General, who in turn will report to the Security Council within two weeks. Rizk understands that the Security Council will then pass a Chapter VI resolution authorizing the negotiation of an agreement with GOL on the establishment of the tribunal. Once an agreement is reached, it will be submitted to Lebanon's parliament for ratification (which Rizk feels is certain due to the consensus already reached in the "national dialogue"). Before the issuance of UNIIIC's final report on June 15, the Secretary General will ask the Security Council for a second resolution under Chapter VII that will direct full and timely cooperation with the tribunal.

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¶7. (C) Rizk said he was aware that a great deal of work and coordination had to be completed in a short period of time. He stated that he would appreciate assistance from UN/OLA and others. Rizk indicated that he expects Nicolas Michel or some of his senior staff to come to Beirut as soon as the Security Council authorizes the Secretary General to proceed.

In terms of immediate action, Rizk acknowledged that it was important for the GOL to make its case to the international community that the tribunal is a Lebanese request, and that Lebanon understands its responsibilities. He said he would re-emphasize this with PM Siniora and work at his level to ensure this message was being delivered, starting with a meeting with Russia's ambassador to Lebanon.

¶8. (C) Concerning the selection of judges for both the trial and appellate divisions of the tribunal, Rizk said the Siniora government would be facing the normal confessional concerns that govern every appointment in Lebanon. He commented the way around this potential roadblock, however, would be for the government to nominate several candidates with a sectarian balance, and then allow the UN to make the final selection. With regard to financing the tribunal, Rizk realizes that Lebanon has the principal responsibility, but due to budgetary constraints, will be forced to appeal to regional allies (i.e. Saudi Arabia, UAE) for assistance. Rizk said that PM Siniora understands at this point, the primary objective of establishing the tribunal is paramount, and therefore, secondary issues (location, administrative staffing, rules of evidence and procedure) should be kept in the background. The Minister agreed that at a minimum, it was essential the tribunal's chief prosecutor office should be operating before Brammertz's mandate expires.

¶9. (C) In a separate meeting with DCM midday on March 9, Judge Ralph Riachi, the second of the GOL's two experts who had traveled to New York, confirmed the broad outlines of GOL intentions described above. He reported that UNIIIC Commissioneer Brammertz was briefed on the morning of March 9

by Minister Rizik, Procurer General Said Mirza, Judge Choukry Sadr, and himself. The only significant distinction from the foregoing paragraphs in Riachy's account concerned how the GOL now envisions a transformation of the current UNIIIC into the office of a procurer general, followed by eventual establishment of a trial court and appellate court in the context of an international tribunal. Riachy's views will be reported septel.

EXTRADITION OF TWA 847 TERRORISTS

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¶10. (C) The Ambassador inquired into the status of the Ministry's promised legal analysis of the U.S. extradition request for TWA hijacker Mohammed Ali Hamadei and his associates. An ensuing exchange between Minister Rizk and Judge Sader indicated that a decision had not yet been reached, and in fact, had been delayed and complicated by the participation of the government's general prosecutor, Said Mirza. The Ambassador reemphasized the importance of this issue in US-Lebanon relations. Minister Rizk apologized for the delay and directed Sader to devote additional resources to the issue. Minister Rizk, who said he personally would like to extradite these persons, indicated the greatest challenge was overcoming the legal code's clear prohibition against the extradition of Lebanese citizens. He commented, "...if you can destroy that legal argument, I would appreciate it."

FELTMAN